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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,562	06/26/2001	Dale F. McIntyre	83016F-P	1897

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EXAMINER

VILLECCO, JOHN M

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/891,562

Applicant(s)

MCINTYRE ET AL.

Examiner

John M. Vilecco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-18 is/are rejected.
- 7) ☒ Claim(s) 8 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/26/01, 9/20/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:
  - On page 1 of the specification, applicant cross references several copending applications. Applicant only gives titles and leaves blanks for the U.S. serial numbers and the filing dates. Applicant is required to update the specification to reflect the serial numbers and the corresponding filing dates.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 16 is objected to because of the following informalities:
  - In line 5 of claim 16, applicant recites the phrase “said digital medial file”. This appears to be a typographical error and that the applicant meant to use the phrase – said digital media file –.

Appropriate correction is required.

3. Applicant is advised that should claim 9 be found allowable, claim 11 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 5 recites the limitation "said icon" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. There is no previous mentioning of an icon in claim 1. For examination purposes it will be assumed that the applicant is talking about the electronic content identifier instead of the icon.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Safai (U.S. Patent No. 6,715,003).**

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9. Regarding *claim 16*, Safai discloses an electronic camera (100) capable of capturing an image. The camera includes a communication port (214) for communicating data externally. Safai discloses transmitting images using a plurality of communication devices (col. 6, lines 6-21). One of those devices is an infrared communications device, which is a wireless communication method. The images are transmitted to a service provider (600) for distribution (col. 14, line 64 to col. 15, line 5). Furthermore, Safai discloses the ability to attach an address or an image address to the image, which the service provider processes and uses to send the image to the correlated destination (col. 8, lines 37-60). The digital media file mentioned in the claim is interpreted to be the image and the address which is attached to the image.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Hull et al. (U.S. Patent No. 5,806,005).**

12. Regarding *claim 1*, Safai discloses an electronic camera (100) capable of capturing an image. The camera includes a communication port (214) for communicating data externally. Safai discloses transmitting images using a plurality of communication devices (col. 6, lines 6-21). The images are transmitted to a service provider (600) for distribution (col. 14, line 64 to col. 15, line 5). Furthermore, Safai discloses the ability to attach an address to the image which

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the service provider processes and uses to send the image to the correlated destination (col. 8, lines 37-60). The address attached to the image and sent to the service provider is interpreted to be the electronic content identifier.

Safai, however, fails to specifically disclose wirelessly communicating the image to the recipient using a cellular modem. Hull, on the other hand, discloses that it is well known in the art to use a cellular modem to transmit images wirelessly to a service provider. More specifically, Hull discloses a modem (26) and a cellular telephone transmitter (28) for sending the images captured by the camera through a cellular system (16) to a server station (14). A wireless connection allows for increased mobility over a wired camera and allows for instantaneous transfer of images to a remote location. Therefore, it would have been obvious to one of ordinary skill in the art to use a cellular modem to transfer the images in Safai wirelessly so that a user is given move mobility when taking images and further so that images can be instantly downloaded to a remote location.

13. As for *claim 2*, as mentioned above, Safai discloses transmitting the images to a remote service provider (600).

14. **Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Mattes (U.S. Patent No. 6,038,295).**

15. Regarding *claim 17*, as mentioned above in the discussion of claim 16, both Safai and Goldberg disclose all of the limitations of the parent claim. However, neither of the aforementioned references discloses that the recipient analyzes the digital image file for a predetermined content identifier. Mattes, on the other hand, discloses that it is well known in the

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art to analyze an image for a predetermined image content in order to direct the image to a particular location. More specifically, Mattes teaches sending images over a transmission system (US) to a server (S) where the image is analyzed and directed to a particular storage location. See column 4, lines 61-67 and column 6, line 61 to column 7, line 5. These images are then forwarded to a server or World Wide Web page for viewing (col. 8, lines 28-35). By allowing the server to recognize the image that has been sent to the server certain actions can be taken on the image once it is identified. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the server in Safai to analyze the image to determine its contents in order to transfer the image to an appropriate location so that the step of transferring images to a desired location can be automated.

16. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Mattes (U.S. Patent No. 6,038,295) and further in view of Goldberg (U.S. Publ. No. 2002/0008872).**

17. With regard to *claim 18*, Mattes discloses the ability of the device to analyze the classification information (OM), which, in this case, is the image data, to determine the content of the photo for classification purposes. Mattes discloses recognizing a building, landscape, or vehicle. Mattes, however, fails to specifically disclose that the content identifier identifies a third party to whom the digital image file is forwarded. Goldberg, on the other hand, discloses that it is well known in the art to identify a person in a picture and then distribute that image to that person. More specifically, Goldberg discloses a method of capturing an image of a person in a public venue, and then allowing the user to collect or distribute those images at their

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convenience. The system includes a camera (63) for capturing an image and facial recognition software for recognizing the person in an image captured using the camera. See page 6, paragraphs 0096-0098. The captured image is then stored in a remote location for retrieval by a user at their convenience. The images can then be selected for emailing to specific email address. See Figures 13a-c. This feature allows for automated image identification and storage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the image distribution system of Safai by automatically identifying a person in the image and sending the image to an email account so that a user does not have to personally identify who the image should be sent to, thereby enhancing the operation of the camera.

18. **Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Goldberg (U.S. Publ. No. 2002/0008872) and further in view of Mattes (U.S. Patent No. 6,038,295).**

19. Regarding *claim 14*, Safai discloses an electronic camera (100) capable of capturing an image. The camera includes a communication port (214) for communicating data externally. Safai discloses transmitting images using a plurality of communication devices (col. 6, lines 6-21). One of those devices is an infrared communications device, which is a wireless communication method. The images are transmitted to a service provider (600) for distribution (col. 14, line 64 to col. 15, line 5). Furthermore, Safai discloses the ability to attach an address to the image which the service provider processes and uses to send the image to the correlated destination (col. 8, lines 37-60).



Safai however, fails to explicitly disclose a computer software program for analyzing the digital image files for recognizing an image content, and creating the instruction based upon the recognized image content. Goldberg, on the other hand, discloses that it is well known in the art to identify a person in a picture and then distribute that image to that person. More specifically, Goldberg discloses a method of capturing an image of a person in a public venue, and then allowing the user to collect or distribute those images at their convenience. The system includes a camera (63) for capturing an image and facial recognition software for recognizing the person in an image captured using the camera. See page 6, paragraphs 0096-0098. The captured image is then stored in a remote location for retrieval by a user at their convenience. The images can then be selected for emailing to a specific email address. See Figures 13a-c. This feature allows for automated image identification and storage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include software to automate the image distribution by automatically identifying a person in the image and sending the image to an email account so that a user does not have to personally identify who the image should be sent to, thereby enhancing the operation of the camera.

Furthermore, neither Safai nor Goldberg specifically discloses where the computer software for image analysis is located. Mattes, on the other hand, discloses that it is well known in the art to analyze an image for a predetermined image content in order to direct the image to a particular location. More specifically, Mattes teaches sending images over a transmission system (US) to a server (S) where the image is analyzed and directed to a particular storage location. See column 4, lines 61-67 and column 6, line 61 to column 7, line 5. These images are then forwarded to a server or World Wide Web page for viewing (col. 8, lines 28-35). The software

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is located in the server. By allowing the server to recognize the image that has been sent to the server certain actions can be taken on the image once it is identified. Additionally, since the software is located at a location remote from the camera, the camera can be made smaller and cheaper than if the software were implemented in the camera. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the server in Safai to analyze the image to determine its contents in order to transfer the image to an appropriate location so that the step of transferring images to a desired location can be automated.

20. As for *claim 15*, Safai discloses that using the identification information the server sends the image to a third party.

**21. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Hull et al. (U.S. Patent No. 5,806,005) and further in view of Dong et al. (U. S. Patent No. 2002/0167682).**

22. Regarding *claim 3*, as mentioned above in the discussion of claim 2, both Safai and Hull disclose all of the limitations of the parent claim. However, neither of the aforementioned references discloses that the service provider sends a confirmation message to the camera that the transmission has been received. Dong, on the other hand, discloses that it is well known in the art to confirm transmission of an image to another device by sending a confirmation to the device saying that the image has been successfully received. As disclosed in paragraph 0033, Dong discloses that the camera receives a transmission from an external device indicating the successful transfer of an image file. This allows the system to know if the image has been

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successfully received and what actions to take thereafter. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the camera of Safai to receive confirmation from the server so that the camera is informed of the status of the transfer.

23. As for *claim 4*, the transmission would include information.

24. **Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Hull et al. (U.S. Patent No. 5,806,005) and further in view of Goldberg (U.S. Patent No. 2004/0008872).**

25. Regarding *claim 5*, as mentioned above in the discussion of claim 1, both Safai and Hull disclose all of the limitations of the parent claim. However, neither of the aforementioned references discloses that the content identifier is generated in response to analyzing the digital image file and determining that a predetermined image content is present. Goldberg, on the other hand, discloses that it is well known in the art to identify a person in a picture and then distribute that image to that person. More specifically, Goldberg discloses a method of capturing an image of a person in a public venue, and then allowing the user to collect or distribute those images at their convenience. The system includes a camera (63) for capturing an image and facial recognition software for recognizing the person in an image captured using the camera. See page 6, paragraphs 0096-0098. The captured image is then stored in a remote location for retrieval by a user at their convenience. The images can then be selected for emailing to a specific email address. See Figures 13a-c. This feature allows for automated image identification and storage. Therefore, it would have been obvious to one of ordinary skill in the

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art at the time the invention was made to automate the image distribution system of Safai by automatically identifying a person in the image and sending the image to an email account so that a user does not have to personally identify who the image should be sent to, thereby enhancing the operation of the camera.

26. As for *claim 6*, as mentioned above in the discussion of claim 5, Goldberg discloses the ability to recognize the face of the person.

27. **Claims 7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Goldberg (U.S. Patent No. 2004/0008872).**

28. Regarding *claim 7*, Safai discloses an electronic camera (100) capable of capturing an image. The camera includes a communication port (214) for communicating data externally. Safai discloses transmitting images using a plurality of communication devices (col. 6, lines 6-21). One of those devices is an infrared communications device, which is a wireless communication method. The images are transmitted to a service provider (600) for distribution (col. 14, line 64 to col. 15, line 5). Furthermore, Safai discloses the ability to attach an address to the image which the service provider processes and uses to send the image to the correlated destination (col. 8, lines 37-60).

Safai however, fails to explicitly disclose a computer software program for analyzing the digital image files for recognizing an image content, and creating the instruction based upon the recognized image content. Goldberg, on the other hand, discloses that it is well known in the art to identify a person in a picture and then distribute that image to that person. More specifically, Goldberg discloses a method of capturing an image of a person in a public venue, and then

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allowing the user to collect or distribute those images at their convenience. The system includes a camera (63) for capturing an image and facial recognition software for recognizing the person in an image captured using the camera. See page 6, paragraphs 0096-0098. The captured image is then stored in a remote location for retrieval by a user at their convenience. The images can then be selected for emailing to a specific email address. See Figures 13a-c. This feature allows for automated image identification and storage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include software in the camera of Safai to automate the image distribution by automatically identifying a person in the image and sending the image to an email account so that a user does not have to personally identify who the image should be sent to, thereby enhancing the operation of the camera.

29. As for *claim 9*, as mentioned above, Safai discloses transmitting the images to a remote service provider (600).

30. With regard to *claim 10*, Safai discloses that the address sent from camera of Safai are automatically distributed to the attached address.

31. As for *claim 11*, as mentioned above, Safai discloses transmitting the images to a remote service provider (600).

32. **Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safai (U.S. Patent No. 6,715,003) in view of Goldberg (U.S. Patent No. 2004/0008872) and further in view of Dong et al. (U. S. Patent No. 2002/0167682).**

33. Regarding *claim 12*, as mentioned above in the discussion of claim 11 both Safai and Goldberg disclose all of the limitations of the parent claim. However, neither of the

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aforementioned references specifically discloses that the service provider sends a confirmation message to the camera that the transmission has been received. Dong, on the other hand, discloses that it is well known in the art to confirm transmission of an image to another device by sending a confirmation to the device saying that the image has been successfully received. As disclosed in paragraph 0033, Dong discloses that the camera receives a transmission from an external device indicating the successful transfer of an image file. This allows the system to know if the image has been successfully received and what actions to take thereafter. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the camera of Safai to receive confirmation from the server so that the camera is informed of the status of the transfer.

34. As for *claim 13*, the transmission would include information.

***Allowable Subject Matter***

35. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

36. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 8, the primary reason for indication of allowable subject matter is that the prior art fails to teach or reasonably suggest that the instruction comprises an icon which identifies a specific instruction that is known to the recipient.

Any response to this action should be mailed to:

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(703) 872-9306 (For either formal or informal communications intended for entry. For informal or draft communications, please label **"PROPOSED"** or **"DRAFT"**)


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Villecco whose telephone number is (703) 305-1460. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John M. Villecco  
November 4, 2004

  
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